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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,946	06/28/2001	Oded Hauser	2-20-21-9	6270

7590 02/23/2005

Lucent Technologies Inc.  
Docket Administrator  
600 Mountain Avenue (Rm. 3C-512)  
P. O. Box 636  
Murray Hill, NJ 07974-0636

EXAMINER
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LEE, ANDREW CHUNG CHEUNG

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/894,946

Applicant(s)

HAUSER ET AL.

Examiner

Andrew C Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/28/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 11 are rejected under 35 U.S.C. 102(e) as being Anticipated by Doshi et al. (U.S. Patent No. 6021113).

Regarding claims 1, 5, 9, Doshi et al. discloses the limitation of a method for use in a network element of a packet-based network (Fig. 7, element 58-i; column 9, line 67; column 10, lines 1 – 2), the method comprising the steps of: storing failure information associated with the packet-based network (Abstract, lines 16 – 19;) and usage information for a backup resource (column 13, lines 31 – 33); upon receipt of a new demand, determining if the backup resource is shareable as a function of the failure information and the usage information (column 13, lines 33 – 37).

Regarding claims 2, 6, Doshi et al. discloses the limitation of the method of claimed wherein the failure information is associated with links of the packet-based network (column 13, lines 47 - 61), the backup resource is a backup path (column 13,

lines 47 - 61), the usage information is related to a bandwidth associated with the backup path (column 6, lines 43 – 48), and the new demand has an associated bandwidth,  $d$  (column 38, lines 4 – 7).

Regarding claims 3, 7, 10, Doshi et al. discloses the limitation of the method of claimed wherein the determining step includes the steps of: determining, from the failure information, if a simultaneous failure can occur on the backup path and a primary path (column 2, lines 50 – 53; column 10, lines 35 – 36); and if no simultaneous failure can occur, updating usage information for the backup path as a function of the bandwidth  $d$  associated with the new demand (column 37, lines 40 – 44; column 38, lines 1 – 3).

Regarding claims 4, 8, 11, Doshi et al. discloses the limitation of the method of claimed wherein the updating step includes the step of determining, from the updated usage information (column 38, lines 1 – 3), if the backup path can support the new demand such that if the new demand cannot be supported the new demand is rejected (column 38, lines 16 – 19).

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Lee whose telephone number is (571) 272-3131. The examiner can normally be reached on Monday through Friday from 8:30am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ACL

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February 14, 2005

  
Ajit Patel  
Primary Examiner